



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

MONDAY

MAY 15TH, 2017

7:00 P.M.

6:00 p.m. – Finance & Administration Committee

Attending:

Mayor Ryder

Councilor Sirois

Councilor McPike

Councilor Wilde

Councilor Marble

Councilor Cormier

Councilor McAvoy

Town Manager Angus Jennings

Town Clerk Paula Scott

Town Planner Karen Cullen

DPW Director Sean Currier

Allison Berube

RSU Board Chair Karen Hawkes

RSU Board Vice Chair Wally Fraser

Assist. Superintendent Reagan Nickels

- A. **PLEDGE OF ALLEGIANCE** – *Mayor Ryder led the Pledge of Allegiance*
- B. **CONSENT AGENDA** - *Councilor Marble made a motion, seconded by Councilor McAvoy, to accept the consent agenda. Unanimous vote in favor.*

1. SIGNATURES

2. SECRETARY'S REPORTS

- a. **May 1st, 2017 Council Meeting Minutes**

3. COMMUNICATIONS

- a. **Notice of the Decision of the Board of Assessment Review in the Acadia Hospital Corp. Appeal of Service Charge Ordinance v. Assessment, heard on April 20th, 2017**
- b. **Safety Enhancement Grant Program Application – May 2017**

4. REPORTS

- a. **Finance Committee Minutes – 04/18/2017, 05/01/2017**
- b. **Infrastructure Committee Minutes – none**
- c. **Planning & Development Committee Minutes – 04/19/2017**
- d. **Services Committee Minutes – 04/10/2017**

- C. **PUBLIC COMMENTS** – *RSU Chair Karen Hawkes approached the podium and introduced herself, Vice Chair Wally Fraser and Assistant Superintendent Reagan Nickels. She passed out three different handouts, attached as Exhibits A-C. She*

NOTE: The Council will take a 5-minute recess at 8:00 pm.

stated that the RSU board felt it important to hand out the information and address town leaders and residents in the RSU in letter format in light of questions that have arisen at recent budget meetings, especially with regard to Article 20. She stated that the RSU board understands the challenges towns are faced with regarding taxes and stated that the RSU is committed to relieve the local burden. If additional state funds are received, they will reach out to the member towns for thoughtful discussion prior to any decision as it relates to Article 20. She further stated that creating a budget that meets the student needs and remains respectful of the demands on tax payers is not taken lightly, and the board has made great strides in accountability. Going forward they will continue to listen to the needs of all stakeholders in member towns. Councilor Sirois asked why the Board is budgeting for a decrease in state funding when leadership in Augusta stated there would be no decrease. Chair Hawkes stated that that is yet to be guaranteed. Councilor Sirois recapped the different scenarios the RSU could approach regarding state funding and Article 20 and reminded the Board that the funds do not belong to the RSU, they belong to the tax payers.

D. POLICY AGENDA

1. NEWS, PRESENTATIONS & AWARDS – *Mayor Ryder reminded the public that the Stream Clean-up is Saturday May 20th.*

2. PUBLIC HEARINGS

- 1. Proposed Zoning Ordinance Amendment to Sections 3.7.4, 3.7.6, 7.2, and adding a new section 4.25 to Article 4, all related to Accessory Apartments – continued from May 1st** – *Mayor Ryder reopened the Public Hearing at 7:15 and called Planner Cullen to the podium. She recapped changes made by the Planning Board as a result of concerns raised when the Public Hearing first opened on May 1st. The amendments that the Planning Board unanimously approved are to allow accessory apartments to be detached, such as in a garage whether existing or new, to delete the 800 square foot maximum size, to keep the requirement of 40% of the square footage of the house in order to remain subordinate, and to increase the allowable amount of bedrooms from one to two. She further stated that the Town Attorney reviewed the amendments in light of the Fair Housing Act and that none of these amendments would violate it as these amendments do not specifically prohibit families with children. The Attorney also pointed out that we should modify the definition of accessory structure as the current definition says uninhabitable. This would simply be a housekeeping measure to avoid future conflict. Planner Cullen stated that if Council were to adopt the proposed amendments, they should vote on version 7 as submitted which include the housekeeping measures just discussed. Mayor Ryder opened*

the floor for questions, Councilor McAvoy made a statement that the public should be aware that all building and energy codes still must be met. Planner Cullen added that they would also require a conditional use permit from the Planning Board. Councilor McPike made a motion, seconded by Councilor McAvoy to adopt the proposed amendments to the Zoning Ordinance in Sections 3.7.4, 3.7.6, 7.2 and adding section 4.25 related to accessory apartments as submitted in version 7 including modifications discussed at the opening of the public hearing on May 1, 2017, to allow accessory apartments to be detached, to delete the 800 square foot maximum size, to keep the requirement of 40% of the square footage, to increase bedrooms from one to two and deleting the second sentence of the definition of accessory structures.

Mayor Ryder asked for public comment and Allison Berube approached the podium. She stated that the accessory structure change is more restrictive than current zoning allowing for the conversion of single family dwellings, and it adversely affects those in Residential A. She further stated that towns, and their zoning committees must provide a bonafide government interest that would serve that interest by being less discriminatory or restrictive. She stated courts have held that zoning regulations are permissible if reasonable and not arbitrary, and provide a substantial benefit to the public. She proposed that limiting accessory apartments to 2 bedrooms is unnecessary. She maintained that the intent to increase housing stock for smaller households could have adverse effects on a protected class which is familial status. She asked Council to strike any mention of a limit on the number of bedrooms, and mention of smaller household also be stricken. She then asked for her statement to be entered into the permanent record. (Note: Statement was not provided at the Public Hearing and request for her to provide it after the fact has gone unanswered)

Mayor Ryder recalled Planner Cullen to the podium to address concerns raised. She stated that regarding the level of restrictions in Residential A, currently a two family dwelling is limited to a conversion of an existing structure and the conversion is not supposed to look like a duplex. The reduction from 50% to 40% of the square footage is more restrictive, but the primary reason is in order to be subordinate, it must be less than 50%. She stated that these are supposed to be accessory and not full size and that the purpose for Residential A is for single family residences to be primarily in this area.

Manager Jennings also stated that the recent Market Study shows a clear trend that Hampden is currently not well suited to smaller households, including those aging in place, and that these changes would advance the governmental interests.

Councilor Marble commended Ms. Berube for getting involved and that he felt that it was a positive experience in a process that ultimately will result in meeting the needs of more people in the community. He also commended Manager Jennings and Planner Cullen for their good work on this.

There were no other comments, and the motion on the floor was brought to vote. Unanimous vote in favor. The public hearing closed at 7:30 p.m.

- 2. Proposed Fees Ordinance Amendments to Article 1 Administration, Article 2 Fees for Activities Regulated by Town Ordinance, including Section 2.9, Sewer rates, and Article 5 Public Works – Mayor Ryder opened the Public Hearing at 7:30 p.m. and called on Manager Jennings to begin discussion on the sewer rate review. Manager Jennings' presentation illustrated what has happened in the past, namely in FY14 and FY15. Major challenges have been billing from Bangor that have shown large variances in flow at the city line and there are concerns over inflow and infiltration. The Town has had to borrow funds to pay overdue bills from the City of Bangor and our contractually obligated share of repair costs to the Bio Tower, and the Sewer Department is still paying back the General Fund at \$100,000 a year. The proposed budget includes for the first time, dedicated personnel in the Sewer Department. Debt Service on the two loans is about \$82,000 a year, and there is a potential need for a referendum regarding debt authorization for the Grist Mill Bridge. Manager Jennings stated that rate increases in this budget are to take care of what has happened in the past and that he is sympathetic to the rate payers. The sewer budget for FY18 proposes a rate increase from \$9.74 to \$11.60 to meet projected expenses.**

Mayor Ryder asked for comments to which Councilor Marble stated that he believes the Council is getting sound information and the question is how to pay bills without more burden to the tax payer and the rate payer. Even though it is bad tasting, he would support a 19% increase to meet obligations. Councilor McPike also stated that he is concerned about what will happen if the CCTV process reveals damage to our lines that need to be repaired.

Manager Jennings stated that Director Currier has brought those same concerns to him numerous times and asked him to come to the podium to elaborate. Director Currier stated first that he is sympathetic to the rate payers. He then reiterated that the Sewer Department is not where it should be in terms of maintenance and that we have been lagging behind for years. He stated that the sooner we can pay back the General Fund, the sooner we can start allocating those funds to repair and maintenance. He indicated that taking care of the problems with inflow and infiltration will reduce the cost for treatment that we are getting billed for. Capital going forward will be extremely important. Bangor is obligated per consent decree to spend a certain amount of money to reduce I & I and a large portion is at the treatment facility. We are legally bound to pay for a portion of that. Without a rate increase, we will not be in a place to take care of those obligations and we will set ourselves back again. He reported that surrounding communities are still paying more in sewer rates, even if we increase ours by the 19%. He stated that the proposed rate increase is still minimal for the amount of sewer infrastructure (28 miles) that we have to maintain. If we can get to the place where we can pay our bills on time and still do maintenance and repairs. We will actually save money over time. He urged the Council to continue with the repayment to the General Fund so that we may then concentrate on issues like the I & I.

Councilor McAvoy asked how many of the Sewer line miles were force mains to which Director Currier replied only about a half a mile. Councilor McAvoy stated that since the CCTV is intended to find areas of inflow and infiltration, he shares the same concern about what we are going to do if we find these issues, or if there are more than we think. He said he would find it difficult to ignore and not spend money on to fix and hopes the rate payers will understand.

Councilors continued to deliberate and pose questions to the Manager regarding possible scenarios for payback to the General Fund, deferment of some of the pay back, Impact Fee Ordinance creation, and potential revenues from Fiberight. At the conclusion of debate, Councilor McAvoy made a motion to go with the 19% increase as recommended by the Manager and reflected in the budget. Councilor Marble seconded the motion. Councilor Marble, Councilor McAvoy, Councilor McPike and Councilor Sirois voted in favor. Councilor Wilde, Councilor Cormier and Mayor Ryder voted in opposition. Motion carries, 4-3. The Public Hearing closed at 8:20 p.m.

Councilor McPike made a motion to approve the proposed amendments to the remainder of the Fees Ordinance that were before them. Councilor Sirois seconded the motion. Unanimous vote in favor.

3. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. **Appointment of Anthony Ng to the Historic Preservation Commission – referral from Planning & Development Committee – Councilor McPike made a motion, seconded by Councilor Marble, to appoint Anthony Ng to the Historic Preservation Committee. Unanimous vote in favor.**
- b. **Re-appointment of Susan O'Brien to the Lura E. Hoit Pool Board of Directors – referral from Services Committee – Councilor Marble made a motion, seconded by Councilor McAvoy, to reappoint Susan O'Brien to the Lura E. Hoit Pool Board of Directors. Unanimous vote in favor.**
- c. **Appointment of Thomas Dorrity to the Planning Board from an alternate member to a full member – referral from Planning Board – Councilor Sirois made a motion, seconded by Councilor Marble to appoint Thomas Dorrity to the Planning Board from an alternate member to a full member. Unanimous vote in favor.**
- d. **Warrant for RSU 22 Budget Validation Referendum – Councilor Marble made a motion, seconded by Councilor Sirois to sign the Warrant for the RSU 22 Budget Validation Referendum. Unanimous vote in favor.**

4. OLD BUSINESS - None

5. NEW BUSINESS

- a. **Contract award for the Design, Engineering and Permitting for Pool and Municipal Building Site– referral from Finance Committee – Councilor Wilde made a motion, seconded by Councilor Sirois, to award the contract for the Design, Engineering and Permitting for the Pool and Municipal Building Site to Woodard and Curran. Unanimous vote in favor.**
- b. **Request for authorization for the expenditure of \$15,470 from Rec Area Reserve account (3-767-00) for the contract for Design,**

Engineering and Permitting for Pool and Municipal Building Site – referral from Finance Committee – Councilor Wilde made a motion, seconded by Councilor Sirois to authorize the expenditure of \$15,470 from Rec Area Reserve to pay for the contract for Design, Engineering and Permitting for Pool and Municipal Building Site. Councilor McAvoy, Councilor Marble, Councilor Wilde, Councilor McPike, Councilor Sirois and Mayor Ryder voted in favor of the motion. Councilor Cormier voted in opposition. Motion carries, 6-1.

- c. **Request for authorization for the expenditure of \$6,179.89 out of the Recreation Clearing Account for the purchase of field maintenance equipment – referral from Services Committee** – Councilor Marble made a motion, seconded by Councilor Wilde to authorize the expenditure of \$6,179.89 out of the Recreation Clearing Account for the purchase of field maintenance equipment. Councilor Marble, Councilor Wilde, Councilor McPike, Councilor Sirois and Mayor Ryder voted in favor of the motion. Councilor McAvoy and Councilor Cormier voted in opposition. Motion carries, 5-2.
- d. **Request for authorization for the expenditure of up to \$2,900 out of the Equipment Reserve Account (3-717-00) for the purpose of renting an excavator – referral from Finance Committee** – Councilor Wilde made a motion, seconded by Councilor Sirois to authorize the expenditure of up to \$2,900 for the purpose of renting an excavator. Councilor Marble, Councilor Wilde, Councilor McPike, Councilor Sirois and Mayor Ryder voted in favor of the motion. Councilor McAvoy and Councilor Cormier voted in opposition. Motion carries, 5-2.
- e. **Request for authorization for the expenditure of \$65,875.98 out of the Streets/Roads Reserve Account (3-761-00) for the purpose of resurfacing roads – referral from Finance Committee** – Councilor Wilde made a motion, seconded by Councilor Marble, to authorize the expenditure of \$65,875.98 from the Streets/Roads Reserve Account for the purpose of resurfacing roads. Unanimous vote in favor.

E. COMMITTEE REPORTS

Services Committee – Councilor Marble reported that this committee met last Monday and tonight's agenda reflected much of what was discussed such as the contract award for the pool site. Committee was updated on the status of the Broadband grant, the Bus and its ridership was discussed. Committee revisited the Farmer's Market and vendors on town property, discussed the Bus service and the Kiwanis lease. FY18 Services priorities were discussed.

Finance & Administration Committee – Councilor Wilde reported that at the May 1st

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meeting, committee members considered the obligation bond, discussed the proposed Fees Ordinance amendments and recommended payment for the BDN, Hampden Electric, and IT Reserve request and approved an expenditure from the Personnel Reserve for a temporary employee. Committee was presented with the FY16 Audit as well as the Managers FY18 Budget.

Planning & Development Committee – Councilor McPike reported that this committee met on May 3rd and were updated on MRC, discussed the proposed amendments to the Fees Ordinance with regard to the rate setting for Sewer. Discussed the issues with flow control and held the first budget work session.

Infrastructure Committee– Councilor Sirois reported that the next Infrastructure Committee meeting will be on May 22nd.

- F. **MANAGER'S REPORT** – Manager Jennings reminded the public that the Garden Club's annual Perennial and Pie Sale is Saturday beginning at 8:00 and the Annual Stream Clean Up begins at 9:00. He reported that at the MRC/Fiberight pre-construction meeting, all utilities were present including the pipeline people and it was a good meeting. The Environment Trust will be meeting Thursday and will review the past 7 years' worth of eligible expenditures in the amount of \$360,000 for reimbursement to the Town.

G. **COUNCILORS' COMMENTS**

Councilor McAvoy – Stated that although he had predicted spring's arrival two weeks ago, he didn't say it wouldn't be a wet one but it is looking up for tomorrow. He reminded everyone to shop local and buy American.

Councilor Cormier – No comment

Councilor Marble – No comment

Councilor Wilde – Stated to those at home who stuck it out watching the meeting until 9:00, to go watch the game!

Councilor McPike – No comment

Councilor Sirois – No comment

Mayor Ryder – Reminded the public that the next budget meeting will be on Wednesday and stated that the Council welcomed involvement by the public. As you can see here tonight, a citizen that got involved and asked questions resulted in something that would be helpful to many. It shows that the Council is listening to the public and welcome the input.

- H. **ADJOURNMENT** – With no other business to conduct, Councilor Marble made a motion, seconded by Councilor Sirois, to adjourn at 8:55 p.m. Unanimous vote in favor.

Respectfully Submitted,



Paula A. Scott, CCM
Town Clerk